

**Exhibit A**

**Peterson, James**

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**From:** Peterson, James  
**Sent:** Friday, July 06, 2012 8:57 AM  
**To:** 'Derek Linke'  
**Cc:** 'John Du Wors'; Cahill, Bryan; Gregor, Jennifer; Talbott Settle, Nicole; 'Derek A. Newman'; 'Randy Moeller'  
**Subject:** RE: Essociate v. Epic

Derek,

You can make whatever record you think is appropriate regarding your deposition notices. Whether you are surprised by Epic Media's decision not to appear, or whether you have diligently pursued this case, are matters you can address to the court. And to be clear, I did not ask you to "strike" the deposition; I asked to reschedule it.

Ultimately, despite your fuming about the timing of the deposition, it appears that what you propose in your email is precisely what I told the court I would try to do in my motion for a status conference. Accordingly, we will put together a proposed modified case schedule and send it over to you early next week. I'll be happy reach consensus with you if we can, but if we have to submit competing proposals to the court, I'm fine with that, too.

After we send the proposed schedule over to you, we can follow up with a call.

Jim

James D. Peterson  
Attorney and Shareholder

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**From:** Derek Linke [mailto:[Linke@newmanlaw.com](mailto:Linke@newmanlaw.com)]  
**Sent:** Thursday, July 05, 2012 6:33 PM  
**To:** Peterson, James  
**Cc:** John Du Wors; Cahill, Bryan; Gregor, Jennifer; Talbott Settle, Nicole; Derek A. Newman; Randy Moeller  
**Subject:** Re: Essociate v. Epic

Dear Mr. Peterson,

I received your message stating that Epic will not be appearing for its noticed Rule 30(b)(6) deposition tomorrow. This is the first time Essociate has heard that Epic does not intend to appear.

Essociate declines Epic's request that it strike the deposition. We are willing to negotiate with

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you to resolve this—and get the case back on track following Epic's recent issues—but Essociate cannot risk the Court determining that Essociate has failed to proceed with diligence in this case as a result of Epic's delays.

We attempted to negotiate mutually-acceptable dates with Epic's former primary-litigation counsel for over three months. Epic's counsel was unresponsive. Finally, on June 5, 2012, Essociate was forced to unilaterally select dates and serve deposition notices, including the notice of Rule 30(b)(6) deposition set for tomorrow. That deposition notice was properly served on Epic's counsel, including your law firm.

We never received any objection, formal or informal, to that deposition notice before your firm and Epic's other counsel moved to withdraw. The correspondence Epic's general counsel sent the Court indicated that Epic's representation issues would be resolved by June 29 (*see* Dkt. # 37) but by that date Epic was still not represented by counsel. Essociate was forced to draft and file a motion for entry of default in order to prompt Epic to file a notice of appearance. Therefore until this morning, it appeared likely that Epic would not appear by counsel and would ultimately be placed into default.

If Essociate withdraws the deposition notice, the Court's aggressive schedule, combined with the delay caused by Epic's issues maintaining representation, will be used in an attempt to create a record that Essociate has failed to diligently proceed with its case. That is unacceptable. For these reasons, Essociate intends to proceed with the Rule 30(b)(6) deposition of Epic tomorrow and will create a record of non-appearance.

I propose that prior to the July 18, 2012 scheduling conference the Court just ordered, we confer and negotiate a stipulation providing for a reasonable trial extension and for a mutually-acceptable deposition schedule. If we reach agreement and the Court adopts our joint proposal, Essociate will not take any action arising from Epic's non-appearance at tomorrow's deposition.

Please contact me to further discuss this proposal at your convenience.

Derek Linke

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On Jul 5, 2012, at 8:39 AM, "Peterson, James" <[Jpeterso@gklaw.com](mailto:Jpeterso@gklaw.com)> wrote:

Hello, Derek.

We have just appeared, as you indicate. You should also have received our motion for status conference, in which we ask the court to schedule a status conference for the purpose of revising the case schedule.

I will be happy to work with you to re-schedule this deposition at our mutual convenience. However our firm has been retained for this case for less than a day, so we are not in a position to appear at this deposition, and our client is not going to be able to appear without representation.

I would like to speak with you about this and other matters related to this case. Specifically, (1)

whether will you withdraw the motion for default, and (2) whether you would confer with us regarding a new case schedule.

Although our firm had represented the defendants as local counsel, we will need some time to get up to speed with the case. I look forward to working with you.

Jim

James D. Peterson  
Attorney and Shareholder

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**From:** Derek Linke [mailto:Linke@[newmanlaw.com](http://newmanlaw.com)]  
**Sent:** Thursday, July 05, 2012 10:27 AM  
**To:** Peterson, James  
**Cc:** John Du Wors  
**Subject:** Essociate v. Epic

Mr. Peterson,

Your firm just filed a notice of appearance in the Essociate v. Epic matter.

Please let me know whether your client intends on appearing for tomorrow's noticed deposition in New York. A copy of the deposition notice which was served is attached.

Sincerely,

Derek Linke

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